IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10373 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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VAPI MUNICIPALITY - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR BS PATEL for Petitioner(s) : 1,MRS RANJAN B PATEL for Petitioner(s) : 1,
MS FALGUNI PATEL, ASSISTANT GOVERNMENT PLEADER for Respondent No.1

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 10/02/2006

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged the order dated 23rd July, 2001 passed by the

Collector, Valsad. By the impugned order, the Collector set aside certain resolutions of the Executive committee of the Vapi Nagar Palika. In the nutshell the Collector did not authorize to spend a sum of Rs. 2,02,782/- by the Nagar Palika. The amount was spent for the purpose of levelling certain roads to avoid hardship to the residents during monsoon. The amount was paid for having dumped 74 trucks loads of Hard moram for filling ditches on the roads. It is the case of the petitioner that same was essential to provide smooth passage for the residents of the locality. It was contended that part of the road was not falling within municipal limits and for residents residing on this area such action was necessary in the interest of general public, without which there would be great hardship to them.

2. Be that as it may, the short ground on which I am inclined to allow this petition is that the amount in question has already been paid and by striking down the resolutions authorizing such expenditure, no useful purpose would be served. This petition is therefore, disposed of by setting aside the impugned order dated 23rd July, 2001 on this short ground alone without expressing any opinion on the question of advisability of spending

the said amount.

3. No independent action was initiated by the authorities against the Councilors for recovery of amount in terms of provisions contained in Section 70 of the Gujarat Municipality Act. Nothing stated by me in this order is meant to prevent any action on Councilors if permissible and found to be advisable by the authority.

4. In the result, the petition is allowed. The order dated 23rd July, 2001 passed by the Collector and as upheld by the Government in its order dated 18th February, 2002 Annexure – A is quashed. Rule made absolute. No order as to costs.

[Akil Kureshi, J.]

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